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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/717,634

11/21/2003

Siamak Naghian

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32294

7590

03/06/2006

SQUIRE, SANDERS & DEMPSEY L.L.P.

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EXAMINER

LE, DANH C

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,634

Applicant(s)

NAGHIAN ET AL.

Examiner

DANH C. LE

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-22, 26-35, 39-41 is/are rejected.
- 7) ☒ Claim(s) 10-12, 23-25 and 36-38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/21/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 11/21/03 has been considered by the examiner and made of record in the application file.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 1, 14, 27, the phrase "i.e." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-7, 9, 13-20, 22, 26-33, 35, 39, 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts (US 6,792,283).**

As to claim 1, Roberts teaches a method for deciding on handover in a cellular communication system (figure 1, 2) comprising cells and a mobile station having a

connection to at least a first cell providing a certain data transfer rate i.e. a bit rate to the mobile station, the method comprising:

- collecting bit rate information related to the mobile station; and
- using the bit rate information for deciding on handover of the mobile station from the first cell to a second cell.

As to claim 2, Roberts teaches a method of claim 1, wherein the bit rate information comprises at least one of the following: the bit rate provided to the mobile station by the first cell, a bit rate provided to the mobile station by at least one other cell, a bit rate requested by the mobile station (figure 1, 2).

As to claim 3, Roberts teaches the method of claim 1, wherein the decision on handover of the mobile station from the first cell to the second cell comprises deciding on whether handover should be carried out (figure 1-3).

As to claim 4, Roberts teaches the method of claim 1, wherein the decision on handover of the mobile station from the first cell to the second cell comprises deciding on to which cell handover of the mobile station should be made (figure 2).

As to claim 5, Roberts teaches the method of claim 1, wherein the decision on handover of the mobile station from the first cell to the second cell comprises deciding on when handover should be carried out (figure 2).

As to claim 6, Roberts teaches the method of claim 1, wherein information about traffic distribution in the system is utilized when deciding on handover of the mobile station (figure 2-4).

As to claim 7, Roberts teaches the method of claim 1, wherein information about capacity provided by the system in different parts of the system is utilized when deciding on handover of the mobile station (figure 2-4).

As to claim 9, Roberts teaches the method of claim 3, further comprising defining a handover profile which defines preferable cell(s) for each bit rate, whereby the handover profile is used when deciding on handover of the mobile station (figure 2-4).

As to claim 13, Roberts teaches the method of claim 1, wherein the first cell and the second cell belong to different radio access systems or to the same radio access system (figure 1-3).

As to claim 14, the claim is the system claim of claim 1; therefore, the claim is interpreted and rejected as set forth as claim 1.

As to claim 15, the claim is the system claim of claim 2; therefore, the claim is interpreted and rejected as set forth as claim 2.

As to claim 16, the claim is the system claim of claim 3; therefore, the claim is interpreted and rejected as set forth as claim 3.

As to claim 17, the claim is the system claim of claim 4; therefore, the claim is interpreted and rejected as set forth as claim 4.

As to claim 18, the claim is the system claim of claim 5; therefore, the claim is interpreted and rejected as set forth as claim 5.

As to claim 19, the claim is the system claim of claim 6; therefore, the claim is interpreted and rejected as set forth as claim 6.

As to claim 20, the claim is the system claim of claim 7; therefore, the claim is interpreted and rejected as set forth as claim 7.

As to claim 22, the claim is the system claim of claim 9; therefore, the claim is interpreted and rejected as set forth as claim 9.

As to claim 26, the claim is the system claim of claim 13; therefore, the claim is interpreted and rejected as set forth as claim 13.

As to claim 27, the limitation of claim is the same limitation of claim of claim 1; therefore, the claim is interpreted and rejected as set forth as claim 1.

As to claim 28, the limitation of claim is the same limitation of claim of claim 2; therefore, the claim is interpreted and rejected as set forth as claim 2.

As to claim 29, the limitation of claim is the same limitation of claim of claim 3; therefore, the claim is interpreted and rejected as set forth as claim 3.

As to claim 30, the limitation of claim is the same limitation of claim of claim 4; therefore, the claim is interpreted and rejected as set forth as claim 4.

As to claim 31, the limitation of claim is the same limitation of claim of claim 5; therefore, the claim is interpreted and rejected as set forth as claim 5.

As to claim 32, the limitation of claim is the same limitation of claim of claim 6; therefore, the claim is interpreted and rejected as set forth as claim 6.

As to claim 33, the limitation of claim is the same limitation of claim of claim 7; therefore, the claim is interpreted and rejected as set forth as claim 7.

As to claim 35, the limitation of claim is the same limitation of claim of claim 9; therefore, the claim is interpreted and rejected as set forth as claim 9.

As to claim 39, Roberts teaches the system element of claim 27, wherein the system element is a radio network controller (figure 1).

As to claim 40, Roberts teaches the system element of claim 27, wherein the system element is the mobile station (figure 1).

As to claim 41, the limitation of claim is the same limitation of claim of claim 13; therefore, the claim is interpreted and rejected as set forth as claim 13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8, 21, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts in view of Santhoff (US 6,907,244).

As to claim 8, Roberts teaches method of claim 1, further comprising: defining cell within the coverage area of the system, and defining preferable bit rates for each cell, whereby so defined cell information is used when deciding on handover of the mobile station. Roberts fails to teach sub-area within the cover area. Santhoff teaches sub-area within the cover area (figure 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Santhoff into the system of Roberts in order to hand over from one sector to another sector within the coverage area.

As to claim 21, the claim is the system claim of claim 8; therefore, the claim is interpreted and rejected as set forth as claim 8.

As to claim 34, the limitation of claim is the same limitation of claim of claim 8; therefore, the claim is interpreted and rejected as set forth as claim 8.

Allowable Subject Matter

Claims 10-12, 23-25, 36-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 10, the teaching of prior arts above either combine or alone fails to further comprising when the mobile station is moving from the first cell to the second cell, the method comprises measuring the bit rate provided to the mobile station by the first cell and/or a bit rate provided to the mobile station by the second cell and performing the mobile station handover from the first cell to the second cell when the bit rate provided by the first cell and/or the bit rate provided by the second cell fulfils a predetermined condition(s).

As to claim 23, the claim is the system claim of claim 10; therefore, the claim is interpreted and rejected as set forth as claim 10.

As to claim 36, the limitation of claim is the same limitation of claim of claim 10; therefore, the claim is interpreted and rejected as set forth as claim 10.

Dependent claims 11, 12, 24, 25, 37, 38 are allowable for the same reason.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Laitinen et al (US 2003/0189912) teaches method and apparatus providing .. broadcast control channel.

B. Willars et al (US 6,889,050) teaches variable transmission rate service in radio access network.

C. Gourgue et al (6,584,116) teaches method of transmission...a call in a UTMS cell.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C. LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "danh", is written over a horizontal line. There are additional strokes above the signature, possibly indicating a date or another mark.

March 03, 2007.

DANH CONG LE
PRIMARY EXAMINER